

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ILLINOIS CENTRAL RAILWAY COMPANY,)	
an Illinois Corporation,)	
)	
Plaintiff,)	
)	
v.)	NO. 08 CV 3690
)	
PARADE PACKAGING, INC., f/k/a)	Judge Lefkow
PARADE PACKAGING MATERIALS CO., INC.,)	
A division of FORTUNE PLASTICS, INC.,)	Magistrate Schenkier
A Connecticut Corporation,)	
)	
Defendant.)	

**ANSWER OF FORTUNE PLASTICS, INC., d/b/a PARADE PACKAGING, INC.,
TO COMPLAINT**

NOW COMES Defendant, FORTUNE PLASTICS, INC., a Connecticut Corporation d/b/a PARADE PACKAGING, INC., (hereinafter referred to as "PARADE"), by and through its attorneys, STITT, KLEIN, DADAY, ARETOS & GIAMPIETRO, LLC, and Answers the Complaint as follows:

1. The Court obtains jurisdiction in this matter pursuant to 28 USCA 1337 (a) and 49 USCA 10743 (a) being a suit for interstate freight and transportation charges.

ANSWER 1: Defendant admits the allegation contained in paragraph 1 of plaintiff's Complaint.

2. Plaintiff, IC is an Illinois Corporation with its principal place of business at 17641 South Ashland Avenue, Homewood, Illinois 60430, doing business in several states of the United

States.

ANSWER 2: Defendant lacks sufficient knowledge to either admit or deny the allegation contained in paragraph 2 of plaintiff's Complaint and demands strict proof thereof.

3. Plaintiff, IC and its connecting carriers at all times mentioned were common carriers by railroad engaged in interstate commerce and doing business in the United States.

ANSWER 3: Defendant lacks sufficient knowledge to either admit or deny the allegation contained in paragraph 3 of plaintiff's Complaint and demands strict proof thereof.

4. Defendant, PARADE PACKAGING, INC., f/k/a PARADE PACKAGING MATERIALS CO., INC., a division of FORTUNE PLASTICS, INC., a Connecticut Corporation, Hereinafter "PARADE"), is involved in the business of wholesale plastics, with an office at 333 Washington Boulevard, Mundelein, IL 60060.

ANSWER 4: Defendant denies the allegation in paragraph 4 of plaintiff's Complaint as it relates to being a division of FORTUNE PLASTICS, INC., and as it relates to being involved in the business of wholesale plastics but admits it has an office located at 333 Washington Boulevard, Mundelein, Illinois 60060.

5. The subject matter of this action stems from demurrage charges assessed under circulars and tariffs published by the plaintiff for freight services throughout the United States, performed by IC for PARADE. IC provided these services for PARADE.

ANSWER 5: Defendant denies the allegation contained in paragraph 5 of plaintiff's

Complaint.

6. At times between June 2005 and January 2006, IC performed the services noted in paragraph 5 above as noted in the Invoices annexed to this complaint as Exhibit "A."

ANSWER 6: Defendant denies the allegation contained in paragraph 6 of plaintiff's

Complaint.

7. Pursuant to the applicable tariffs, circulars and contracts, there accrued to IC charges for these services the sum of \$13, 450 US Dollars. A listing of the charges and the amount due for each is attached hereto as Exhibit "A."

ANSWER 7: Defendant denies the allegation contained in paragraph 7 of plaintiff's

Complaint.

8. These charges were billed and payment demanded for the services rendered by IC to PARADE at PARADE'S offices at 262 S. Shaddle Avenue, Mundelein, IL 60060, from where the bills have always been disputed and/or paid; however, the defendant has failed and refused to pay the bills noted in this Complaint.

ANSWER 8: Defendant denies the allegation contained in paragraph 8 of plaintiff's

Complaint.

WHEREFORE, DEFENDANT, FORTUNE PLASTICS, INC., d/b/a PARADE PACKAGING, INC., requests that this Court enter judgment in favor of FORTUNE PLASTICS, INC., d/b/a PARADE PACKAGING, INC., and against Plaintiff.

AFFIRMATIVE DEFENSE

NOW COMES Defendant FORTUNE PLASTICS, INC., d/b/a PARADE PACKAGING, INC., an Connecticut company by and through its attorneys, STITT, KLEIN, DADAY, ARETOS & GIAMPIETRO, LLC and as its Affirmative Defense states as follows:

1. Defendant was not the shipper of the product contained in the railcars.
2. Defendant has never ordered the shipping of product from IC. Defendant is the consignee and recipient of product contained in the railcars. Service for delivery was at the request by the manufacturer selling the product to Parade.

S/Shannon B. Rigby
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